Home Office

Domestic Violence Disclosure Scheme (DVDS) Guidance

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Contents

1. Introduction

1. Domestic violence and abuse is a devastating crime that shatters the lives of victims and families. In 2014/15 81 women were killed by a current or former partner.

2. The Domestic Violence Disclosure Scheme (DVDS) – often referred to as "Clare's Law" after the tragic case of Clare Wood, who was murdered by her former partner in Greater Manchester in 2009 – was rolled out across all 43 police forces in England and Wales in March 2014 following the successful completion of a 14 month pilot. The Scheme was introduced to set out procedures that could be used by the police in relation to disclosure of information about previous violent and abusive offending by a potentially violent individual to their partner where this may help protect them from further violent and abusive offending. A review of the scheme was conducted in 2015.

3. The Domestic Violence Disclosure Scheme did not introduce any new legislation. The scheme is based on the police's common law power to disclose information where it is necessary to prevent crime. The scheme provides structure and processes for the exercise of the powers**. It does not, in itself, provide the power to disclose or to prevent disclosures being made in situations which fall outside this scheme.**

4. Any disclosure must be within the existing legal framework and, in particular, have due regard to established case law, the Human Rights Act 1998 and the Data Protection Act.

5. The purpose of this guidance document is to support the delivery of the Domestic Violence Disclosure Scheme and assist front-line officers and those who work in the area of public protection with the practical application of the scheme. It builds on the original guidance that was published in 2012, taking into account policy considerations that were identified during the 2015 review, such as widening the scope of the scheme to cover ex-partners.

6. Data on the use of the Domestic Violence Disclosure Scheme are collected as part of the police Annual Data Return (ADR). Although the data are collected on a voluntary basis, police forces are encouraged to provide the information in order to help build up an accurate picture of how the scheme is being used nationally.

7. Definitions of terms used in this guidance are at Annex A.

8. It is important to remember that the purpose of this scheme is to facilitate disclosure in order to protect a potential victim from harm. **Each request for information under this scheme should be considered on a case-by-case basis and the police should seek legal advice when necessary.** There may be occasions when information cannot be disclosed in accordance with the Domestic Violence Disclosure Scheme but disclosure may still be possible and legal advice should be sought.

2. What is the Domestic Violence Disclosure Scheme?

10. The police have common law powers to disclose information about a person's known history of violence or abuse, normally relating to previous convictions or charges, to the public where there is a pressing need for disclosure of the information in order to prevent further crime. The principal aim of the Domestic Violence Disclosure Scheme is to introduce recognised and consistent procedures, based on this common law power, for the police to consider the disclosure of information in order to protect a member of the public who may be at risk of harm from domestic violence or abuse. Critical to the success of the scheme is the need for a risk assessment to be completed at every stage in the disclosure process, as this will inform the practical actions necessary to safeguard the potential victim and inform the development of a potential disclosure under this scheme.

11. The Domestic Violence Disclosure Scheme recognises two procedures for disclosing information:

"Right to ask" is triggered by a member of the public applying to the police for a disclosure.

"Right to know" is triggered by the police making a proactive decision to disclose information to protect a potential victim.

12. The scheme provides the following benefits:

a. introduces recognised and consistent procedures for disclosing information that enables a partner (**A**) who is/was in an intimate relationship with a previously violent or abusive individual (**B**) to make informed choices about continuing in that relationship or about their personal safety if no longer in the relationship;

b. enhances the previous arrangements whereby disclosure occurred largely in a reactive way when agencies came into contact with information about an offender having a history of previous violence;

c. under "right to ask", individual members of the public, whether the partner (**A**) or a third party (**C**), can now proactively seek information, with an expectation that the agencies responsible for safeguarding victims of domestic violence will check to see whether relevant information exists and if it does, that consideration will be given to its disclosure where necessary to protect the victim;

d. under "right to know", where a safeguarding agency comes into the possession of information about the previous violent and abusive behaviour of **B** that may cause harm to **A**, members of the public can now expect the safeguarding agency to consider whether any disclosure should be made and to disclose information if it is

lawful, i.e. if it is necessary and proportionate to protect the potential victim from crime;

e. encourages individuals to take responsibility for safety of the potential victim.

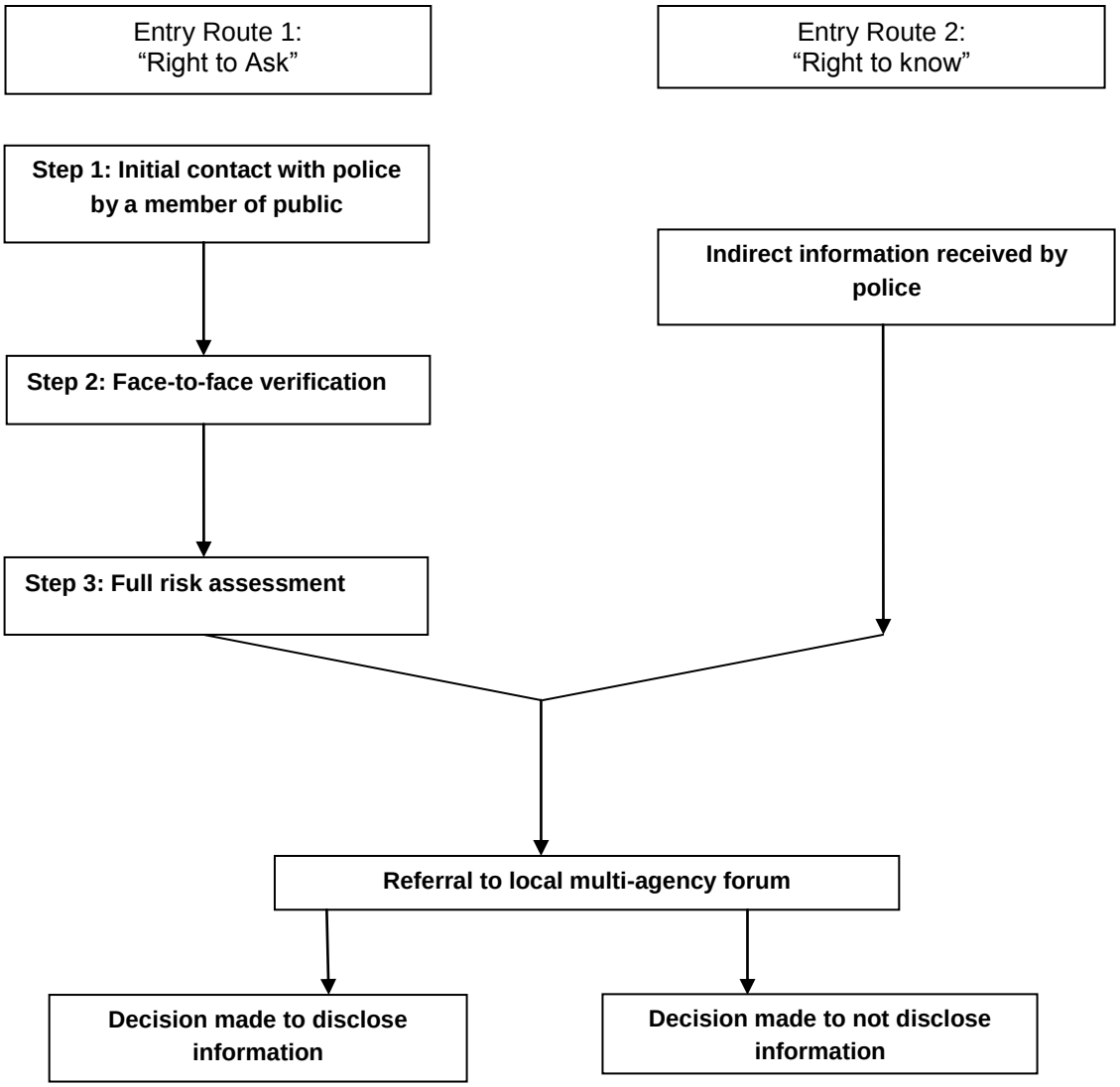
13. The Domestic Violence Disclosure Scheme is focused on disclosure and risk management where **B** is identified as having a conviction, caution, reprimand, or final warning for violent or abusive offences; and/or information held about **B**'s behaviour which reasonably leads the police and other safeguarding agencies to believe that **B** poses a risk of harm to **A**. There is a non-exhaustive list of the relevant offences at Annex B.

14. It is important to all involved in delivering this scheme that potential or actual victims of domestic violence and abuse are protected from harm. By making a request for disclosure, a person will often also be registering their concerns about possible risks to their own safety or that of another individual. For that reason, it is essential to this process that police forces work closely with the local Multi-Agency Risk Assessment Conference (MARAC) or, where not available, other suitable local safeguarding forum, to ensure that any possible risks of harm to **A** are fully assessed and managed.

15. This scheme does not replace existing arrangements for Disclosure and Barring Service (DBS) checks, Subject Access or Freedom of Information (FOI) requests. If it is identified at the initial contact that the request is one of these other types of enquiry then it should be directed down the existing route for this type of request.

16. The Domestic Violence Disclosure Scheme may overlap with and complement other disclosure processes, such as Multi-Agency Public Protection Arrangements (MAPPA) and the Child Sex Offender Disclosure Scheme (Sarah's Law). Consideration should be given to which process is the most appropriate in each case.

Figure 1: Overview of Domestic Violence Disclosure Scheme entry routes



Note: a decision not to proceed with a disclosure, based an appropriate assessment of risk, may be made at any stage of the process.

3. The process

"Right to Ask" entry route

Step 1 – Initial Contact with Police

17. For the purposes of the "right to ask" entry route, the trigger that may lead to a disclosure under this scheme is where a member of the public (**A** or **C**) makes a direct application to the police for information about the previous violent or abusive behaviour of **B**. However, **C** making an application will not necessarily receive a disclosure as a more appropriate person to receive disclosure may be **A** or a person deemed by the risk assessment as the person best placed to safeguard **A** (e.g. parent, third-sector worker).

18. The direct application will be deemed to have been made when either **A** or **C** makes contact with the police and asks for specific information about **B**'s previous violent or abusive offending.

19. If at any stage during the initial contact the police believe that **A** or **C** is alleging a crime (e.g. a specific incidence of a violent or abusive act) rather than asking for information about the previous violent or abusive offending of **B**, then the police must pursue the crime report under normal criminal investigation procedures. However, it is possible for the procedures leading to a disclosure under this Domestic Violence Disclosure Scheme to run concurrently with a criminal investigation triggered by the allegation of the crime.

20. If **A** or **C** makes an enquiry to a partner agency rather than the police, then normal procedures adopted by the partner agency for handling this type of request should apply. However, if **A** or **C** makes it known that they are making an enquiry under the Domestic Violence Disclosure Scheme, then **A** or **C** should be referred to the police. A partner agency may facilitate contact with the police if it is appropriate.

21. If **A** or **C** visits a police station in person, then they must be allowed the opportunity to make their referral in private, as they may feel uncomfortable doing so in hearing of other members of the public.

Information to be obtained and communicated during the initial contact

22. It is envisaged that the initial contact by **A** or **C** will be received and managed by police control room staff. Where front-line police officers and police community support officers receive a verbal application during the course of their normal policing duties, they should record basic details of **A** or **C** and then make a referral to the control room staff to complete the initial contact.

23. After receiving the initial contact, the control room staff should take the details from **A** or **C** listed at Annex C.

Note: it is vital that, during this initial contact, a safe means of communication is agreed with A or C where the place, means and timing is determined by A or C. This is critical to safeguarding A.

24. During the initial contact stage, the police member of staff should also inform **A** or **C** of the following:

a. the Domestic Violence Disclosure Scheme does not replace existing procedures that are currently in place for subject access or Freedom of Information (FOI) requests and the Disclosure and Barring Service (DBS);

b. a disclosure will only be made to the person who is in the best position to safeguard **A** from harm. This will normally be **A**, unless there is a compelling reason not to disclose to **A**;

c. initial checks will be completed as soon as possible and, in any case, within 24 hours[1] to:

i. assess whether the disclosure application should be progressed;

ii. assess whether there is an immediate or imminent risk of harm to **A** from **B**;

d. should a decision be made to progress the disclosure application further:

i. the disclosure application will be referred to the police's Public Protection Unit, or other appropriately trained staff, to follow up;

ii. **A** or **C** will be required to undertake a face-to-face meeting within the next 10 working days;

e. at the face-to-face meeting, **A** or **C** will be required to provide proof of their identity and, if the applicant is **C**, proof of their relationship to **A**, such as text messages showing evidence of the relationship;

f. the police will aim to complete the enquiry within 35 days but there may be extenuating circumstances that increase this timescale. **A** or **C** will be informed if this is the case;

g. if any immediate risks to **A** are identified at any stage, then immediate safeguarding action will be taken and this will include a robust safety plan delivered by the police and partners. Should a decision be made to disclose information to **A**,

[1] Note that timescales provided are intended as a guide. Police should use their discretion, based on assessment of risk, to determine appropriate timescales for action.

then this will also be accompanied with a robust safety plan tailored to the needs of **A**.

Intelligence checks following initial contact

25. Following the initial contact, intelligence checks should be undertaken by a police member of staff in accordance with local police procedures[2] to build an initial picture on **A**, **B** and **C**. The minimum standard of checks at this stage are:

a. Police National Computer (PNC);

b. Police National Database (PND)

c. ViSOR (if the subject has a ViSOR marker on the Police National Computer);

d. local intelligence systems.

26. These checks must not be made in the presence of **A** or **C**, to avoid any inappropriate or accidental disclosure to the person at this stage. No disclosure to **A** or **C** should be given by the staff member taking the initial contact details at this stage.

Decision on whether to progress Disclosure Application

27. The information gathered via the initial contact and intelligence checks inform both the initial risk assessment on **A** and the basis of a decision on whether to progress the disclosure application. A template risk assessment form is at Annex D to assist this decision-making process.

28. In accordance with local police procedures, it will be for the police member of staff to:

a. make the decision on whether or not to progress the disclosure application following this risk assessment;

b. determine how **A** or **C** will be contacted to progress the disclosure application, consistent with preferred method agreed at the Initial Contact.

From the above steps outlined above, if it is identified there is an immediate/imminent risk of harm to A, then ACTION MUST BE TAKEN IMMEDIATELY to safeguard those at risk.

[2] The checks may be undertaken by police control room staff, or staff from the Public Protection Unit, or other appropriately trained staff, as local police procedures determine.

Step 2 – Face-to-Face Meeting

29. If, following the risk assessment conducted under step 1, the police decide that the disclosure application should continue, the person who made the application (either **A** or **C**) must be seen in a face-to-face meeting. This is to ensure that the request is:

a. genuine and not malicious; and

b. to establish further details about the application in order to further assess risk and to inform a decision around disclosure; and

c. to provide safety information and advice to safeguard **A**.

30. The face-to-face meeting should take place as soon as practicable and, in any event, no later than 10 working days after the initial contact.

31. It is highly recommended that police officers or members of police staff with appropriate expertise, such as a Public Protection Unit should complete this stage of the process, as they will have experience and knowledge of managing domestic violence offenders and investigation into domestic violence incidents. This requisite knowledge and experience in this high-risk area of public protection will inform the relevant questioning and assist in assessing risk.

32. **If at any stage during the initial contact the police believe that A or C is alleging a crime (e.g. a specific incidence of a violent or abusive act) rather than asking for information about the previous violent or abusive offending of B, then the police must investigate the crime report and follow local procedures**. However, it is possible for the procedures leading to a disclosure under this Domestic Violence Disclosure Scheme to run concurrently with the criminal investigation.

Preliminaries

33. Before progressing enquiries on the application, the police member of staff must:

a. warn **A** or **C** that if they wilfully or maliciously provide false information to the police in order to try and get a disclosure they are not entitled to, that they may risk prosecution e.g. if they have provided false details in an attempt to make a malicious application, they may be prosecuted under Section 5(2) of the Criminal Law Act 1967 (*where a person causes any wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry, he shall be liable on summary conviction to imprisonment for not more than six months or to a fine of not more [level 4 on the standard scale] or to both*);

b. warn **A** or **C** that if they disclose evidence of an offence whilst registering a concern, it may not be possible to maintain their confidentiality;

c. warn **A** or **C** that information disclosed by the police must only be used for the purpose for which it has been shared i.e. in order to safeguard **A**;

d. assure **A** or **C** that the application will be dealt with confidentially. There should however be a caveat placed on this - that confidentiality can only be guaranteed pending the outcome of the process. It should be explained that in the event of a concern arising about **B**, the police must consider whether representations should be sought from **B**. Moreover, if a resultant disclosure is to be made to **A** or **C**, the police must consider whether **B** should be informed that a disclosure has been made to **A** or **C**.

e. ask **A** or **C** for proof of identity. Acceptable forms of ID may include:

i. passport;

ii. driving licence;

iii. other trusted form of photo identification;

iv. birth certificate;

v. household utility bill (electricity, gas, council tax, water);

vi. bank statement.

34. Recommended practice is that photo identification with confirmation of date of birth and address is required. However, it is accepted that some of the vulnerable individuals who may make applications may not have the above forms of identification. In these cases it may be possible to refer to another agency to confirm the individual's identity (e.g. social worker, health visitor).

35. **A disclosure must not be made to A or C without verification of identity or if the applicant chooses to remain anonymous.** However, if either of these two eventualities arise, checks should still be made on the information given about **B** and, if concerns are identified, then the application should be treated as an intelligence submission which may be used to inform safeguarding measures for **A**, if **A**'s identity is known or can be found out.

Information to be obtained during the face-to-face meeting

36. A template form containing the list of information that is required during this meeting, plus the warnings articulated in paragraph 33, is provided at Annex E.

37. **A** or **C** should be told that the person to whom the disclosure is made will be asked to sign an undertaking that they agree that the information is confidential and they will not disclose this information further. A warning must be given that legal proceedings could result if this confidentiality is breached and that it is breach under section 55 of the Data Protection Act 1998 for a person to knowingly or recklessly obtain or disclose personal

data without the consent of the data controller (i.e. the agency holding the information that will be disclosed, which in most cases will be the police). This should be explained to the person and their signature obtained on this undertaking. If the person is not willing to sign the undertaking the police will need to consider if disclosure should still take place. The outcome should be recorded and considered in the subsequent risk assessment and decision making process.

38. After the face-to-face meeting, the applicant should, if appropriate, be given an information pack on the Disclosure Scheme, which should give information on what they can do in the interim to better safeguard **A** pending the outcome of the application. It may not be appropriate to provide an information pack to the applicant where there is a risk that this information could get into the wrong hands. The contents of the information pack is at the discretion of the police but should as a minimum contain:

a. leaflet to explain Domestic Violence Disclosure Scheme

b. local leaflets that provide sign-posts to local support services

Step 3 - Full risk assessment

39. Following the face-to-face meeting, the police should then consider conducting a full risk assessment according to the following scenarios.

Scenario 1: the original applicant is A

40. Under Scenario 1, the Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH) form, or equivalent, should be fully completed and reference made to national police guidance on domestic abuse. Where stalking is identified, the S-DASH risk assessment should also be completed. Completion of the DASH form is vital to establish an appropriate safety plan for **A**.

41. The population of the DASH form should include revisiting the information obtained:

a. in the initial contact

b. at the face to face stage

c. on the Police National Computer (PNC),

d. on the Police National Database (PND),

e. ViSOR,

f. local intelligence systems.

42. The research and checks should aim to fill any gaps in information and this stage should ensure all available information known to police on the individuals concerned with the enquiry has been established.

43. Checks will also be completed with other agencies where appropriate. This will include:

a. social services (where the applicant has given consent on the referral form or where the circumstances of the enquiry dictate this is necessary without consent);

b. probation service;

c. the Multi-Agency Risk Assessment Conference (MARAC);

d. local domestic abuse services;

e. any other agency that can provide information to inform the risk assessment.

Scenario 2: the original applicant is C

44. Under Scenario 2, a DASH form should not be completed, given that there is no direct contact with the victim. Instead, the police should consider whether, subject to paragraphs 51-55 below ("concern" or "no concern"), a decision to disclose information should be referred to the multi-agency forum.

"Right to Know" entry route

Indirect information received by the police

45. For the purposes of the "right to know" entry route, the trigger which may lead to a disclosure under this scheme is where the police receive indirect information that may impact the safety of the victim (**A**) and which has not been conveyed to the police via the "right to ask" process.

46. Indirect information is likely to be information received by the police from intelligence-gathering arising from the following activities:

a. an investigation into a criminal act where, as part of that investigation, the police have reason to believe that **A** may be at risk of harm from **B**;

b. information on alleged violent and abusive offending by **B** that is received from:

i. partner agencies (statutory and/or third sector) as part of routine information sharing at local safeguarding meetings;

ii. intelligence sources;

iii. either **A** or **B** coming into contact with the police as part of their routine operational duties.

47. Following receipt of the indirect information, intelligence checks should be undertaken by the police to build an initial picture on **A** and **B**. The minimum standard of checks at this stage are:

a. Police National Computer (PNC);

b. Police National Database (PND);

c. ViSOR (if **A** and/or **B** has a ViSOR marker on the Police National Computer);

d. local intelligence systems.

48. Processes under the National Intelligence Model should also be used to determine, as far as possible, the veracity of the indirect information received.

49. To ensure that the safeguarding response is proportionate and in line with the risks identified, the police may prioritise which potential disclosures receive a full risk assessment. To assist in the process of prioritisation, consideration should be given to the following:

a. whether **A** is judged to be at "high", "medium" or "low" risk of harm from **B**;

b. whether **A** is associated with a serial perpetrator of domestic violence.

50. The police may make the decision not to progress the disclosure following the completion of intelligence checks. This decision should be recorded appropriately.

Referral to local multi-agency forum

51. At this point in the Disclosure Scheme process it is envisaged that, from either the "right to ask" or "right to know" entry routes, sufficient information will have been gathered and checked to determine whether a credible risk of harm to **A** in the form of violent and abusive offending and/or behaviour from **B** exists. The police should categorise either the disclosure application (under "right to ask") or the indirect information received (under "right to know") as either a "concern" or "no concern" before it is referred to the local multi-agency forum for discussion and final decision for disclosure by the police.

Categorising a "concern" or "no concern"

52. A "concern" occurs if **A** is at risk of harm from **B**, based on a balanced profile of **B** that takes into account the following factors:

a. **B** has convictions for an offence related to domestic violence (see Annex B for list of offences) that may be disclosed under the terms of the Rehabilitation of Offenders Act 1974; and/or

b. **B** is a serial perpetrator of domestic violence; and/or

c. there is intelligence known about the previous violent and abusive offending of **B** which may include:

i. cases not proceeded with; and/or

ii. intelligence concerning violent or abusive offences; and/or

iii. previous concerning behaviour towards previous partners. This may include a pattern of behaviours that indicate that **B** has stalked or exercised coercive control over previous partners, including after the end of a relationship.

and/or

d. there is concerning behaviour by **B** demonstrated towards **A**. This may include a pattern of behaviours that indicate that **B** is stalking or exercising coercive control over **A**.

53. Where police officers have the power in the course of their duties to disclose spent convictions under the Domestic Violence Disclosure Scheme it is important that disclosure

still needs to be **reasonable and proportionate**. The police will want to take into account the age of the spent conviction during the decision-making process. Legal advice should be sought where necessary. Where such disclosure is lawful the Rehabilitation of Offenders Act (ROA) 1974 provides an exemption under that Act from prosecution for the disclosure.

54. If a "concern" occurs, the police must consider if representations should be sought from **B** to ensure that the police have all necessary information to make a decision in relation to disclosure. As part of this consideration, the police must also consider whether there are good reasons not to seek a representation, such as the need to disclose information in an emergency or seeking the representation might put **A** at risk.

55. A "**no concern**" applies where **B** has:

a. no convictions for an offence related to domestic violence and abuse that may be disclosed, including spent convictions; and/or

b. there is no other intelligence or information that indicates that B's behaviour may cause harm to **A**; and/or

c. there is insufficient intelligence or information to register a concern.

56. This stage of the process should be reached no later than 5 working days from the face-to-face meeting (under "right to ask") or from receipt of the indirect information (under "right to know").

57. Once the police have determined whether the initial trigger can be categorised as a "concern" or "no concern", the final decision to disclose must be referred to the local multi-agency forum for consideration at their next meeting**. While it will be for the police to make the final decision on whether the trigger is a "concern" or "no concern" and, consequently, whether a disclosure should be made, this should be done with the input of the multi-agency forum.**

If it is identified there is an immediate/imminent risk of harm to A, then ACTION MUST TAKEN IMMEDIATELY BY THE POLICE to safeguard those at risk.

58. The local multi-agency forum should ideally be the Multi-agency Risk Assessment Conference (MARAC). If this is not possible, the forum should be a multi-agency body which may consist of some or all of the following agencies:

- Police
- Probation Service
- Prison Service
- Health

- Housing
- Education
- Social Services
- Independent Domestic Violence Advocate (IDVA)

A representative from each of the following:

- women support service
- victim support service
- male support service
- perpetrator programme

59. The minimum number of bodies constituting the local multi-agency forum should be no less than three, and consist of the police, probation service and IDVA.

60. The local multi-agency forum should consider the referral no later than 20 working days after the categorisation of the “concern” or “no concern” has been made by the police.

Principles the local multi-agency forum must consider when making a decision on whether to disclose

61. There are three principles that the local multi-agency forum must take into account before advising the police on the decision to disclose information that protects **A**.

Principle 1: Three-stage disclosure test

62. The police have the common law power to disclose information about an individual where it is necessary to do so to protect another individual from harm. The following three stage test should be satisfied before a decision to disclose is made:

a. it is reasonable to conclude that such disclosure is necessary to protect A from being the victim of a crime;

b. there is a pressing need for such disclosure; and

c. interfering with the rights of **B**, including **B**’s rights under Article 8 of the European Convention of Human Rights, to have information about his/her previous convictions kept confidential is **necessary and proportionate** for the prevention of crime. This involves balancing the consequences for **B** if his/her details are disclosed against the nature and extent of the risks that **B** poses to **A**. This stage of the test involves considering:

i. whether **B** should be asked if he or she wishes to make representations, so as to ensure that the police have all the necessary information at their disposal to conduct the balancing exercise, and

ii. the extent of the information which needs to be disclosed - e.g. it may not be necessary to tell the applicant the precise details of the offence for the applicant to take steps to protect **A**.

63. There may be concerns that relate to **B**'s current behaviour towards **A** within the disclosure application e.g. abusive or threatening behaviour. In this case, even though there is no recorded information held by the police or other agencies to disclose to the applicant, the applicant may still be contacted to talk about the multi-agency forum's concerns over the **B**'s current behaviour. This discussion should cover steps the applicant should take in relation to these concerns to safeguard **A** from the risk of harm posed by **B**. The forum will consider what safeguarding measures could be introduced to support **A** in the short, medium and long term, and determine the roles and responsibility of each agency to ensure that the safety plan remains victim-centred.

Principle 2: Data Protection Act 1998

64. Information considered for disclosure may include sensitive, personal data (such as information about a person's previous convictions) and therefore the local multi-agency forum must also be satisfied that disclosure is in accordance with the eight principles set out in that Act (see Annex F for details of these principles and guidance on how they can be practically applied.). The First Principle is not relevant if s29 of the DPA applies, but one of the conditions in Schedule 2 and one of the conditions in Schedule 3 must still be met.

Principle 3: Informing B of the disclosure

65. Consideration must also be given as to whether **B** should be told that information about him/her may be disclosed to the applicant. Such a decision must be based on an assessment of risk of harm to **A**, if **B** were to be informed. Due consideration must be given on whether the disclosure to **B** would have potential to escalate the risk of harm to **A**. It this were to be the case, no disclosure must be given to **B**.

66. In the event that **B** is to be informed that a disclosure is to be made to the applicant, then B should be informed in person and given information about the Domestic Violence Disclosure Scheme and the implications for **B**. This also provides agencies with an opportunity to sign-post **B** to relevant support services to allow **B** to address his/her offending behaviour.

67. Annex H contains a template checklist for the local multi-agency forum to refer to, which summarises the three principles articulated in this section of the guidance.

Decision made to disclose information

68. If the decision is made to disclose information because it is judged that there is a risk of harm to **A** that warrants a disclosure, then the following should be considered:

a. what will be disclosed?

The multi-agency forum will consider the specific wording of a disclosure that contains sufficient information to allow the recipient to make an informed choice with regard to their relationship or contact with **B**. The disclosure must be accompanied by a robust safety plan tailored to the needs of **A** and based on all relevant information, which identifies the service provision and the agency leads who will deliver on-going support to **A**.

b. who should the disclosure be made to?

The disclosure should be provided to the person(s) best placed to safeguard **A**. Whilst it is envisaged that the majority of disclosures will be made to **A**, it may not be appropriate to do so in all instances. The judgement of who to disclose to will be determined following the information gathered as part of this Disclosure Scheme process and subsequent risk assessments.

c. how the disclosure should be made?

The disclosure will be delivered by the police, however the multi-agency forum will consider whether there are other agencies that should also be involved in the delivery, based on the information at hand. It is good practice to consider a joint-agency approach to the disclosure provision.

It is strongly recommended that the disclosure should be made in person. In line with safeguarding procedures, it is essential that the disclosure takes place at a safe time and location to meet the specific needs of **A**.

69. If disclosure is made, then the person receiving the disclosure must receive the following information:

a. that the disclosure must only be used for the purpose for which it has been shared i.e. in order to safeguard **A**;

b. the person to whom the disclosure is made will be asked to sign an undertaking that they agree that the information is confidential and they will not disclose this information further;

c. a warning should be given that legal proceedings could result if this confidentiality is breached. This should be explained to the person and they must sign the undertaking.

70. If the person is not willing to sign the undertaking, the police will need to consider if disclosure should still take place. The outcome should be recorded and considered in the risk assessment, decision-making process and safety plan.

71. At no time will written correspondence concerning the specifics of the disclosure consideration be sent out or left with the applicant in relation to the disclosure of information. There would be a potential risk to intelligence sources, victims and perpetrators should such written information get into the wrong hands. Annex H provides a template form which may be used to convey a disclosure. What the applicant is told should be recorded verbatim on this form, signed and then retained by the police. It must not be given to the applicant in any circumstances.

72. The person to whom the disclosure is made should, if appropriate, be given information to empower them to safeguard **A** in the future. The contents of the information pack is at the discretion of the police but should as a minimum contain:

a. leaflet to explain Domestic Violence Disclosure Scheme

b. local leaflets that provide sign-posts to local support services

Decision made not to disclose information

73. If a decision is made not to disclose information because it is judged that there is a no risk of harm to **A** that warrants a disclosure, then these actions should be followed:

a. if the decision not to disclose has been made following the “right to know” entry point, then the decision not to disclose plus the rationale should be recorded. Recording the decision in this way may inform future disclosure considerations made on **B**.

b. if the decision not to disclose has been made following the “right to ask” entry point, then the following steps should be taken:

i. it is highly recommended that the applicant should be told in person, via a safe telephone number if appropriate, as any written correspondence or a home visit has the potential to put **A** at more risk. The applicant should be told that there is no information to disclose given the information/details provided by the applicant and the result of checks made on these details.

ii. However, it is important that the applicant is told that the lack of information to disclose does not mean that there is no risk of harm to **A**, and the applicant should remain vigilant and report any future concerns. This contact also presents an opportunity to provide safeguarding information and sign-posting to relevant support services.

iii. Annex I provides a template form which may be used to convey suitable wording.

iv. the applicant should be given an information pack to help safeguard **A** in the future, but at no time should the information pack contain written correspondence concerning the specifics of the disclosure consideration. There would be a potential risk of harm to **A** should such written information be obtained by a third party and/or **B**.

v. **B** will not be notified where no disclosure is made to the applicant.

Managing the perpetrator

74. Regardless of whether a decision is made to disclose information to safeguard **A**, the local multi-agency forum should also consider whether **B** should be referred to an appropriate local framework for managing offenders. Such a decision will be made based on the risk of harm posed by **B**'s offending behaviour to the local community, and options may include referral either to the local:

a. Multi-Agency Public Protection Arrangement (MAPPA)

or

b. Integrated Offender Management (IOM) scheme.

75. The local multi-agency forum should use the risk-assessment criteria in force by local MAPPA and IOM schemes to determine the appropriate scheme to which B might be referred.

Maintaining a record of the Disclosure Scheme

76. At the closure of every case (whatever the outcome and at any stage in the process) a final intelligence report must be submitted onto police and local agency intelligence systems to record the request/information received, outcomes and details of all parties involved. This should serve as a piece of valuable intelligence, which will be retrievable to all police forces via the PND system. It would allow any patterns where **B** has many disclosure requests made against them to be identified to help safeguard **A**.

77. Any decisions made as a result of this scheme must be recorded fully and in a format that would stand scrutiny of any formal review including judicial review.

78. It is also crucial that any relevant information coming to light as part of this process is shared as appropriate with all relevant agencies, in accordance with the principles of information sharing and disclosure as articulated in this guidance document.

Table 1 – Suggested Maximum Timescales

<table>
<tr><th colspan="2">Right to ask</th><th colspan="2">Right to know</th></tr>
<tr><td>Contact made</td><td>Indirect information received</td><td colspan="2">Indirect information received</td></tr>
<tr><td>Step 1 – Initial Contact checks</td><td>Completed within 24 hours from Initial Contact made</td><td colspan="2" rowspan="2"></td></tr>
<tr><td>Step 2 – face – face meeting</td><td>Completed within 10 working days from Initial Contact checks</td></tr>
<tr><td>Step 3 – full-risk assessment</td><td>Completed within 5 working days from face-to-face meeting</td><td>Intelligence checks made</td><td>Completed within 5 working days from indirect information received</td></tr>
<tr><td colspan="4">Referral to local multi-agency forum occurs no later than 20 working days from “Step 3 – full risk assessment” (under “right to ask”) or “Intelligence checks made” (under “right to know”)</td></tr>
</table>

Annex A – Definitions

The following definitions are used for the purposes of this guidance document:

A – is the partner who is in, or was previously in, an intimate relationship with a potentially violent and/or abusive individual (B).

applicant – means the person making the application under “right to ask”.

application – means those enquiries under “right to ask” that go on to be processed as formal domestic violence disclosure applications, excluding applications that are not ‘true’ disclosure scheme applications i.e. vetting and barring, intelligence giving opportunities.

B – is the potentially violent and/or abusive individual who is/was in an intimate relationship with a partner (A).

C – is a third party who has some form of contact with A. This could include any third party such as a parent, neighbour or friend.

disclosure – means the act of disclosing specific information to A or C about B’s convictions for violent and relevant non-violent offences and any other relevant information deemed necessary and proportionate to protect A from harm.

harm – includes any hurt calculated to interfere with the health or comfort of the victim; such hurt need not be permanent, but must be more than transient and trifling.

indirect information – means that, under “right to know”, the police come into possession of information that may impact the safety of A and which has not been conveyed to the police via the “right to ask” process.

information-sharing – sharing of information between all the agencies (both statutory and non-statutory) involved in the Domestic Violence Disclosure Scheme.

intimate relationship – means a relationship between two people, regardless of gender, which may be reasonably characterised as being physically and emotionally intimate.

multi-agency forum – means the local forum consisting of safeguarding agencies, police, probation and third sector that is constituted to advise whether disclosure would be appropriate in a particular case. Ideally, this should be the Multi-agency Risk Assessment Conference (MARAC) or, where this is not possible, another appropriate forum that local needs determine and which can deliver the intended outcomes of the Domestic Violence Disclosure Scheme. Ultimately, it will be the police, as owners of the information, who will make the final decision as to whether to disclose the information.

relevant non-violent offence – means an offence that does not involve the use of any force or injury to another person but that may cause fear or distress or still put the victim at risk, for example through threat of harm, controlling or coercive behaviour or stalking.

serial perpetrator – for the purposes of this disclosure scheme, the definition articulated by the Crown Prosecution Service is used.

where a suspect has committed an act of domestic violence against two or more different victims or complainants they should be considered a 'serial perpetrator'.

violent offence – means an offence which leads to, or is intended or likely to lead to, a person's death or physical injury to a person.

Annex B of this guidance document gives a non-exhaustive list of offences that may be disclosed under the Domestic Violence Disclosure Scheme.

Annex B – Non-exhaustive list of offences where convictions and/or allegations may be disclosed under the Domestic Violence Disclosure Scheme

The following list sets out the offences where a conviction or allegation may be disclosed under the Domestic Violence Disclosure Scheme. **The list is non-exhaustive and is intended to act as a guide to the types of offences that may be disclosed.**

Battery

Common assault

Murder

Manslaughter

Kidnapping

False imprisonment

Under the Offences against the Person Act 1861:

section 4 (soliciting murder)

section 16 (threats to kill).

section 18 (wounding with intent to cause grievous bodily harm).

section 20 (malicious wounding).

section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence).

section 23 (maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm).

section 28 (causing bodily injury by explosives).

section 29 (using explosives etc. with intent to do grievous bodily harm).

section 30 (placing explosives with intent to do bodily injury).

section 31 (setting spring guns etc. with intent to do grievous bodily harm).

section 35 (injuring persons by furious driving).

section 38 (assault with intent to resist arrest).

section 47 (assault occasioning actual bodily harm).

Under the Public Order Act 1986

section 1 (riot).

section 2 (violent disorder).

section 3 (affray).

section 4 (fear or provocation of violence)

section 4A (intentional harassment, alarm or distress)

section 5 (harassment, alarm or distress)

Under the Protection from Harassment Act 1997

section 2 (offence of harassment)

section 4 (putting people in fear of violence)

Under the Explosive Substances Act 1883:

section 2 (causing explosion likely to endanger life or property).

section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property).

Under the Children and Young Persons Act 1933

section 1 (cruelty to children)

Under the Firearms Act 1968

section 16 (possession of firearm with intent to endanger life)

section 16A (possession of firearm with intent to cause fear of violence)

Under the Theft Act 1968:

section 7 (theft)

section 8 (robbery or assault with intent to rob)

section 9 (burglary with intent to inflict grievous bodily harm)

section 10 (aggravated burglary)

section 21 (blackmail)

Under the Criminal Damage Act 1971

section 1 (criminal damage including arson)

Under the Criminal Law Act 1977

section 6 (violence for securing entry)

Under the Criminal Attempts Act 1981

section 1 (attempting to commit an offence)

Under the Child Abduction Act 1984

section 1 (offence of abduction of child by parent etc.)

section 2 (offence of abduction of child by other persons)

Under the Criminal Justice and Public Order Act 1994

section 51 (intimidation, etc., of witnesses, jurors and others)

Under the Crime and Disorder Act 1998

section 29 (racially or religiously aggravated assaults)

section 30 (racially or religiously aggravated criminal damage)

section 31 (racially or religiously aggravated public order offences)

section 31 (racially or religiously aggravated harassment)

Under the Domestic Violence, Crime and Victims Act 2004

section 5 (causing or allowing the death of a child or vulnerable adult)

Under the Sexual Offences Act 2003:

section 1 (rape)

section 2 (assault by penetration)

section 3 (sexual assault)

section 4 (causing a person to engage in sexual activity without consent)

section 5 (rape of a child under 13)

section 6 (assault of a child under 13 by penetration)

section 7 (sexual assault of a child under 13)

section 8 (causing or inciting a child under 13 to engage in sexual activity)

section 9 (sexual activity with a child)

section 10 (causing or inciting a child to engage in sexual activity)

section 11 (engaging in sexual activity in the presence of a child)

Under the Asylum and Immigration (Treatment of Claimants etc.) Act 2004

section 4 (trafficking people for exploitation)

Under the Modern Slavery Act 2015

section 1 (slavery, servitude, forced or compulsory labour)

Under the Serious Crime Act

section 76 (controlling or coercive behaviour)

Protection from Harassment Act 1997

section 2 (offence of harassment)

section 2A (offence of stalking)

section 4 (putting people in fear of violence)

section 4A (stalking involving fear of violence or serious alarm or distress)

Annex C – Template of Minimum Standard of Information to be Obtained and Checks to be Completed at the Initial Contact Stage

(Unique reference number to be allocated to each enquiry and made reference to throughout the process)

Officer Recording:

Date:

Means of Contact:

Details of Applicant:

Name (including any other names used, ie maiden):

DOB:

Place of birth:

Address:

Ethnic Origin:

Gender:

Preferred Language:

Preferred Method of Contact (Safety):

Time:

Day:

Method:

Details of Subject:

Name (including any other names used):

DOB:

Place of birth:

Gender:

Ethnic origin:

Address including previous address(es):

Place of work/employment:

Details of Person at Risk (if not applicant):

Name (including any other names used):

DOB:

Place of birth:

Gender:

Ethnic origin:

Address including previous address(es):

Place of work/employment:

Details of Children:

Name (including any other names used):

Address:

Ages (approximate if necessary):

Relationship:

Nature of relationship between subject and person at risk:

How would you describe the relationship:

Length of relationship:

Concerns:

What concerns have they in regard to the person at risk?:

Elements of Risk:

Does the subject know that the enquiry has been made?:

Concerns about subject knowing that you are making this application:

Information to be Read to Applicant:

Does not replace existing procedures

Disclosure will only be given to person at risk and/or person who is in a position to safeguard

24 hour timescale for checks to eliminate immediate risk

Face-to-face meeting follows within 10 days

Proof of ID required

Enquiry will be completed within 35 days

Do you consider yourself to be at risk from the subject?

Caveat: The person completing the forms has responsibility to complete all relevant checks, no disclosure at this stage (to be completed within 24 hours)

If a crime is reported there is a duty to respond and conduct an investigation in line with normal operating procedures

(the Disclosure process will run alongside any investigation that is on-going)

Annex D – Template for Initial Checks/Risk Assessment

This is the minimum standard of checks that are required at this initial contact stage. Any further checks that Forces feel are necessary are at their discretion. How these checks are to be recorded is to be decided by individual Forces.

Checks Completed on Subject:

Officer recording:

Date:

PNC:

PND:

Intelligence check:

DASH tool:

Checks Completed on Applicant (if not Person at Risk):

PNC:

Intelligence:

Checks Completed on Person at Risk:

PNC:

Intelligence:

DASH:

If a crime is reported there is a duty to respond and conduct an investigation in line with normal operating procedures

(the Disclosure process will run alongside any investigation that is on-going)

Risk Assessment

Is there an Immediate or Imminent Risk of Harm Identified at this Stage?:

Yes (immediate action to be taken to safeguard those at risk in line with standard procedures and record action below):

OR

No (any relevant details to be recorded in making this decision):

Officer/Staff completing:

Date:

Additional Information:

Brief summary of information known at this stage, outcome of checks done and comments by Supervisors in support of decision made:

Annex E – Template for Face-to-Face contact meeting

Minimum standard of information to be obtained and checks to be completed at the Face-to-Face stage

(Unique reference number to be allocated to each enquiry and reference to be made throughout the process)

Officer Recording:

Date:

Location:

Persons' Present:

Details of Applicant:

Name:

DOB:

Place of birth:

Address:

Ethnic origin:

Verification of Identity (photographic identification required):

Passport – number:

Driving Licence – number:

Birth Certificate:

Other:

Further Details:

Reason for contact and application?:

Describe history of relationship:

Consent:

Warning about providing false information

Warning of further disclosing information received

Name:

Signature:

Date:

Officer Recording:

Date:

Caveat: It is the responsibility of the person completing the form to conduct all relevant checks, no disclosure at this stage (although it seems unnecessary to repeat person's details and checks, it might be good practice to facilitate a tick box or guidance prompt to ensure none of the persons have come to notice since the initial contact check. At the discretion of Forces, further checks in regard to international enquiries could be warranted, CETS, etc).

Additional PND checks to be completed at this stage and consideration to the following:

Checks Completed on Subject:

Officer recording:

Date:

PNC:

PND:

Intelligence check:

DASH:

Checks Completed on Applicant (if not Person at Risk):

PNC:

Intelligence:

Checks Completed on Person at Risk:

PNC:

Intelligence:

DASH:

Are any immediate or imminent risk of harm factors identified at this stage? (Action to safeguard to be taken at this stage as necessary)

Annex F – Data Protection Act 1998 Principles

This annex contains information and further guidance on applying the 8 principles of the Data Protection Act 1998. This information and further information on the Data Protection Act can be obtained from the Information Commissioner's Office and is available at www.ico.gov.uk.

Schedule 1 to the Data Protection Act lists the data protection principles in the following terms:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless – (a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

Personal data shall be accurate and, where necessary, kept up to date.

Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

Personal data shall be processed in accordance with the rights of data subjects under this Act.

Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Further guidance on applying the Data Protection Act principles

1. The Data Protection Act says that:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –

(a) at least one of the conditions in Schedule 2 is met, and

(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

This is the first data protection principle. In practice, it means that you must:

have legitimate grounds for collecting and using the personal data;

not use the data in ways that have unjustified adverse effects on the individuals concerned;

be transparent about how you intend to use the data, and give individuals appropriate privacy notices when collecting their personal data;

handle people's personal data only in ways they would reasonably expect; and

make sure you do not do anything unlawful with the data.

Section 29 of the DPA provides an important exemption to this requirement if the sharing of personal data is necessary for the *prevention and detection of crime*. However, in the case of personal data, a condition from Schedule 2 must be met and a condition from Scheduled 2 and a condition from Schedule 3 must be met in the case of sensitive personal data. Such information shared must comply with the remaining data protection principles. Use of the exemption should be considered on a case-by-case basis.

2. The Data Protection Act says that:

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

This requirement (the second data protection principle) aims to ensure that organisations are open about their reasons for obtaining personal data, and that what they do with the information is in line with the reasonable expectations of the individuals concerned.

There are clear links with other data protection principles – in particular the first principle, which requires personal data to be processed fairly and lawfully. If you obtain personal data for an unlawful purpose, for example, you will be in breach of both the first data protection principle and this one. However, if you comply with your obligations under the other data protection principles, you are also likely to comply with this principle, or at least you will not do anything that harms individuals.

In practice, the second data protection principle means that you must:

be clear from the outset about why you are collecting personal data and what you intend to do with it;

comply with the Act's fair processing requirements – including the duty to give privacy notices to individuals when collecting their personal data

comply with what the Act says about notifying the Information Commissioner; and

ensure that if you wish to use or disclose the personal data for any purpose that is additional to or different from the originally specified purpose, the new use or disclosure is fair.

3.The Data Protection Act says that:

Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

This is the third data protection principle. In practice, it means you should ensure that;

you hold personal data about an individual that is sufficient for the purpose you are holding it for in relation to that individual; and

you do not hold more information than you need for that purpose.

4. The Data Protection Act says that:

Personal data shall be accurate and, where necessary, kept up to date.

This is the fourth data protection principle. Although this principle sounds straightforward, the law recognises that it may not be practical to double-check the accuracy of every item of personal data you receive. So the Act makes special provision about the accuracy of information that individuals provide about themselves, or that is obtained from third parties.

To comply with these provisions you should:

take reasonable steps to ensure the accuracy of any personal data you obtain;

ensure that the source of any personal data is clear;

carefully consider any challenges to the accuracy of information; and

consider whether it is necessary to update the information.

5. The Act does not set out any specific minimum or maximum periods for retaining personal data. Instead, it says that:

Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

This is the fifth data protection principle. In practice, it means that you will need to:

review the length of time you keep personal data;

consider the purpose or purposes you hold the information for in deciding whether (and for how long) to retain it;

securely delete information that is no longer needed for this purpose or these purposes; and

update, archive or securely delete information if it goes out of date.

6. The Data Protection Act gives rights to individuals in respect of the personal data that organisations hold about them. The Act says that:

Personal data shall be processed in accordance with the rights of data subjects under this Act.

This is the sixth data protection principle, and the rights of individuals that it refers to are:

a right of access to a copy of the information comprised in their personal data;

a right to object to processing that is likely to cause or is causing damage or distress;

a right to prevent processing for direct marketing;

a right to object to decisions being taken by automated means;

a right in certain circumstances to have inaccurate personal data rectified, blocked, erased or destroyed; and

a right to claim compensation for damages caused by a breach of the Act.

7. The Data Protection Act says that:

Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

This is the seventh data protection principle. In practice, it means you must have appropriate security to prevent the personal data you hold being accidentally or deliberately compromised. In particular, you will need to:

design and organise your security to fit the nature of the personal data you hold and the harm that may result from a security breach;

be clear about who in your organisation is responsible for ensuring information security;

make sure you have the right physical and technical security, backed up by robust policies and procedures and reliable, well-trained staff; and

be ready to respond to any breach of security swiftly and effectively.

8.The Data Protection Act says that:

Personal data shall not be transferred to a country or territory outside the EEA unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

This is the eighth data protection principle, but other principles of the Act will also usually be relevant to sending personal data overseas. For example, the first principle (relating to fair and lawful processing) will in most cases require you to inform individuals about disclosures of their personal data to third parties overseas. The seventh principle (concerning information security) will also be relevant to how the information is sent and the necessity to have contracts in place when using subcontractors abroad.

The Act also sets out the situations where the eighth principle does not apply, and these situations are also considered in more detail in this section.

Annex G – Information-sharing principles

The successful implementation of the Domestic Violence Disclosure Scheme is dependent on appropriate information-sharing between agencies and disclosure to a third party for the purpose of protecting the public. For the sake of clarity, information-sharing is the sharing of information between all the agencies (both statutory and non-statutory) involved in the Domestic Violence Disclosure Scheme.

Agencies responsible for sharing and disclosing information under the Domestic Violence Disclosure Scheme should familiarise themselves with the Information Commissioner's Office (ICO) Data Sharing Code of Practice and ICO code on the DPA exemption in s29 of the DPA re crime prevention, both available from the ICO website at www.ico.gov.uk.

The purpose of sharing information in this context is to enable the relevant agencies (both statutory and non-statutory) to work more effectively together in assessing risks and considering how to manage them. This points towards sharing all the available information that is relevant, so that nothing is overlooked and public protection is not compromised. However, there are certain principles that must be taken into account when considering whether to share information.

At all times, the ability to both share and disclose information must be considered on a case-by-case basis to determine whether the sharing of information is lawful, i.e. necessary and proportionate.

Information that is shared under the Domestic Violence Disclosure Scheme remains the responsibility of the agency that holds it. For example, the Probation Service will hold information regarding their statutory supervision of a perpetrator, and the police hold information regarding their separate management of a perpetrator.

Information-sharing must adhere to common law and legislation. Whilst ordinarily non-statutory agencies are bound by a common law duty of confidence, (which requires that information provided should not be used or disclosed further in an identifiable form except as originally understood by the provider, or with his or her subsequent permission), case law has established a defence to breach of confidence where the disclosure is in the public interest. The prevention, detection, investigation and punishment of serious crime and the prevention of abuse or serious harm may well amount to a sufficiently strong public interest to override the duty of confidence.

The information-sharing must comply with the eight data protection principles set out in the DPA and reproduced in the ICO Code of Practice. Among other things, this means that the information shared must be accurate and up-to-date; it must be stored securely; and it must not be retained any longer than necessary. The DPA principles are set out at Annex F.

In normal circumstances, data shall be handled only with the data subject's consent, transparently, and only in ways which the data subject would reasonably expect. However, section 29(1) of the DPA provides an important exemption to the requirement to comply with the data principle 1 if the sharing of personal data is necessary for the prevention and detection of crime (guidance on s29 is available on the ICIO website). Under the Domestic Violence Disclosure Scheme, it will be appropriate for information to be shared under this exemption and without the consent of the data subject (B) if it can be shown that such sharing is necessary for the prevention of a crime against A. However, in the case of personal data a condition from Schedule 2 must be met and a condition from Scheduled 2 and on from Schedule 3 must be met in the case of sensitive personal data. It also important to note that such information shared must comply with the remaining data protection principles. Use of the exemption should be considered on a case-by-case basis.

Data sharing must also comply with the Human Rights Act 1998 (HRA). Article 8 of the ECHR, given domestic effect by the HRA, provides a right to respect for private and family life, home and correspondence. Any interference with this right by a public authority (such as a criminal justice agency) must be "necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The sharing of personal information about a potential perpetrator may be an interference with a person's right to a private and family life. To comply with Article 8 of the European Convention on Human Rights, any such interference must be shown to be necessary and proportionate in the pursuit of a legitimate aim, such as public safety or the prevention of disorder or crime.

In human rights law, the concept of proportionality means doing no more than is necessary in pursuit of a legitimate aim. The third Data Protection Principle provides that personal data must be relevant, and not excessive in relation to the purpose for which it is being shared.

Annex H – Template checklist on disclosure decision-making process by the local multi-agency forum

Section 1 – Questions for Consideration

Is B known for domestic abuse related convictions?

Where B is known for domestic abuse related convictions, does the Disclosure Application highlight safeguarding concerns in view of the nature of this previous history?

Is B known for other offences relating to safeguarding (to include intelligence, breach of civil orders, harassment or injunctions, etc, Police National Database or information obtained by local checks)?

If B is known for offences/intelligence/information relevant to safeguarding and they are in an intimate relationship, give consideration to 'concerns' outcome route.

Reconsider if there is an immediate/imminent risk of harm identified and, if so, take immediate action to safeguard person(s) at risk.

Section 2 - Review the outcome of the initial contact and face-to-face stages

Were concerns raised as a reason for making the application?

Was the behaviour of the subject/applicant's observations raised as a reason for making the application?

With all the above questions, consideration must be given as to why.

Reconsider if there is an immediate/imminent risk of harm identified and, if so, take immediate action to safeguard person(s) at risk.

Section 3 – Further Information

Is there any other information, not covered in the above questions, that highlights safeguarding concerns.

If yes, give full details and consideration to 'concerns' outcome route.

CONCERNS: Yes / No (delete as applicable)

Rationale and justification for chosen outcome route (free text):

Officer/Agencies represented and completed:

DECISION: Disclosure / Non-Disclosure (delete as applicable)

CONSIDERATION GIVEN TO INVITE B TO MAKE REPRESENTATIONS:

Yes / No (delete as applicable)

Rationale and justification for chosen outcome route (free text):

Officer/Agencies represented and completed:

CONSIDERATION GIVEN TO INFORM B OF DISCLOSURE:

Yes / No (delete as applicable)

Rationale and justification for chosen outcome route (free text):

Officer/Agencies represented and completed:

CONSIDERATION GIVEN TO REFER B TO APPROPRIATE LOCAL FRAMEWORK FOR MANAGING OFFENDERS (e.g. MAPPA, IOM)

Yes / No (delete as applicable)

Rationale and justification for chosen outcome route (free text):

Officer/Agencies represented and completed:

Section 4 – Legal Authority

Due consideration be given to Common Law Power to disclose information about a person's convictions where there is a need for such disclosure to protect the public from crime;

AND

Disclosure would not be in breach of the Human Rights Act 1998, Data Protection Act 1998 or a breach of confidence.

Annex I – Template containing minimum information to be disclosed (including form of words)

Template to be retained by the Police

Section 1 – Details of Person Receiving Disclosure Information

Surname:

Forename(s):

DOB:

Address:

Section 2 – Details of Subject of Disclosure Information

Surname:

Forename(s):

DOB:

Section 3 – Details of Disclosure Meeting

Time:

Date:

Agency:

Persons present:

Role:

Section 4 – Undertaking by Person Receiving Disclosure Information

The following information should be read as it appears below (verbatim) to the individual receiving disclosure information. If the individual does not agree to this undertaking, you should consider carefully whether disclosure should proceed at this point. The decision to continue/to not continue must be considered prior to the actual visit and should be included in the risk assessment/decision making stage. Also provide the individual with further contact details that can be accessed 24/7 in case there are further child protection concerns.

Prior to receiving any disclosure information you must clearly understand how you can use the information that is disclosed to you.

You can:

use this information to keep yourself and others safe;

use the information to keep your child(ren) safe;

ask what support is available;

ask who you should contact if you think you or others are at risk; and

ask for advice on how to keep yourself and others safe.

You cannot:

share the information disclosed to you with any other person. If you feel you need to share the information with another person, you must contact the person or department who disclosed this information to you and seek their permission to do so.

Failure by you to keep this information confidential may result in legal proceedings being instigated against you, depending on the circumstances.

You will be asked to sign an undertaking to agree to abide by the above and keep the information disclosed to you confidential. If you do not agree to sign this undertaking, it may result in you not receiving disclosure information.

UNDERTAKING

I understand the section above about how I can use the information disclosed to me in this meeting. I understand that the information is confidential and that legal proceedings against me may result if I breach this confidentiality. I agree to abide by these conditions in relation to the information that will be disclosed to me in this meeting:

Signature (of person receiving disclosure information):

Time:

Date:

Section 5 – Details of Disclosure of Information (NOT to be left with applicant in any format)

Exact form of words being disclosed:

Section 6 – Declaration

I have received and fully understand the information that has been shared with me today. I understand the warnings I have been given about the confidentiality of this information.

Signature (of person receiving disclosure information):

Time:

Date:

Section 7 – Empowerment and Citizen-Focused Closure

An appropriate follow-on plan should be agreed for the person receiving disclosure. This should give consideration to what action the person should now be advised to take to safeguard their child(ren).

This should be explained to the person and the possible consequences of failure to follow this advice should be made clear.

Empowerment Pack issued or directed to website? Yes / No

(delete as applicable)

The plan should note which agency is responsible for checking that the person follows advice to safeguard the child(ren) concerned; this may be the Police, Children's Social Care or another appropriate agency. It should be noted which agency will provide any support to the person to assist with this; this may be the Police, Children's Social Care or another appropriate agency/charity (eg Women's Aid, Stop it Now!).

Any further queries or concerns contact:

Officer/Staff name:

Office No:

Department name:

24/7 Contact No:

Officer/Staff Making Disclosure

Officer/Staff completing:

Time:

Date:

Section Additional Information

Section No:

Details:

Annex J – Template form of words for non-disclosure

Template to be retained by police

Case Reference Number:

Dear (insert applicant's name):

The disclosure process provides a formal opportunity to contact the Police in order to make a request for information about a named individual who is in a relationship. In the event that this individual has convictions for domestic related matters careful consideration is given to disclosing information to a person at risk and or a person who is in a position to safeguard that individual. Disclosure may also be given where there is other information suggesting that the individual poses a risk of harm and disclosure is necessary to keep someone safe.

In relation to the enquiry that you made under the case reference number above, from the information that you provided to the Police and the checks made on these details, we can confirm that in line with criteria set out above, the Police have no information to disclose relating to the subject of your application.

Although there is no information to disclose to you on this occasion, you must remain vigilant to any indicators that this individual poses a risk of harm. The decision in this case is based on the information available to the Police service at this point in time. The Police will never be able to offer categorical assurances about the risk posed by any individual. Please refer to the Applicant Pack provided as part of the process for further information about safeguarding.

You are thanked for making a request under the Disclosure Process and we would take this opportunity to reiterate that your enquiry is a positive step towards keeping people safe.

If you have any further concerns in the future regarding for your safety or someone else you are encouraged to report your concerns to the Police or the Domestic Abuse Helpline on contact telephone numbers provided.

Signed:

Officer/Staff member:

Rank/Role:

Number:

Station/Department:

Date:

Local Police Telephone Number:

Domestic Abuse Helpline: